RAJYA SABHA

Monday, The 15th March, 1999/24 Phalguna, 1920 (Saka)

The House met at two minutes past eleven of the clock, **Mr. Chairman** *in the Chair.*

OBITUARY REFERENCE TO VICTIMS OF MAJOR FIRE ACCIDENT IN DELHI

MR. CHAIRMAN: As Hon'ble Members are aware, at least, 32 persons were killed and many others injured in a devastating fire that broke out in the Indira Camp, Bengali Basti and Naupul Bela Road adjoining Vijay Ghat in Central Delhi yesterday, the 14th March, 1999. About 2,000 hutments are reported to have been perished in the fire.

In this hour of tragedy, our heart goes out to those who have lost their kith and kin and who have suffered loss of property. We also pray for the early recovery of those who have been injured. We are sure that every effort will be made to extend relief assistance and to restore normalcy as early as possible.

I request Hon'ble Members to rise in their places and observe silence as a mark of respect to the victims of the tragedy.

(*Hon. Members then stood in silence for one minute*)

ORAL ANSWERS TO QUESTIONS

Compassionate Ground Appointments Pending with DDA

*261. SHRI RAJ NATH SINGH: SHRIMATI MALTI SHARMA:†

Will the MINISTER OF URBAN AFFAIRS AND EMPLOYMENT be pleased to state:

(a) whether Government are aware that a number of cases of appointments on compassionate grounds are pending with the DDA since May, 1996;

(b) if so, the category-wise details thereof;

(c) whether a number of representation have been made by the dependents in this regard but could not be settled by DDA while the families of the deceased are suffering from financial loss;

(d) if so, what are the reasons for delay; and

(e) the action taken/being taken by Government to provide compassionate appointments to them?

THE MINISTER OF URBAN AFFAIRS AND EMPLOYMENT (SHRI RAM JETHMALANI): (a) to (e) A statement is laid on the Table of the House.

Statement

(a) and (b) Yes, Sir. DDA has reported that 344 number of cases prior to May, 1996 and 157 number of cases since May, 1996 are pending with DDA. The category-wise details of the cases since May, 1996 are as under:—

Category	No. of Applications Received
Group 'C'	14
Group 'D'	143

(c) and (d) Yes Sir. The instructions issued by the Government of India regarding appointment on compassionate grounds are applicable to the employees of Delhi Development Authority. As per these instructions, compassionate appointments can be made upto a maximum of 5% of vacancies falling under direct recruitment quota in any Group 'C' or 'D' post.

A large work force in DDA has been identified as surplus. Since the vacancies in Group 'C' and 'D' against direct recruitment quota were not available, a proposal was received by the Government from DDA for creation of posts in

†The Question was actually asked on the floor of the House by Shrimati Malti Sharma.

these categories so as to provide appointment on compassionate grounds to deserving dependents and the same was not accepted on the grounds that:

(i) as per the Staff Inspection Unit's report there is already excess staff in DDA in all the categories;

(ii) as per the Government's instructions, compassionate appointments can be made upto a maximum of 5% of vacancies falling under direct recruitment quota in Group 'C' and 'D' posts;

(iii) the Supreme Court in its judgement dated 4.5.1994 had inter alia held that offering compassionate appointment as a matter of course irrespective of the financial condition of the family of the deceased Government servant is legally impermissible.

(iv) there are instructions of the Government for reduction of 10% of sanctioned posts at various level;

(v) the Department of Personnel and Training has not agreed to this Ministry's proposal for increase in the quota of compassionate appointments from 5% to 10% in view of the Supreme Court's Judgement.

(e) The matter was again taken up by DDA with the then Lt. Governor who ordered that appointment on compassionate grounds be made against the number equivalent to 5% of vacancies. Pursuant to the approval of the Lt. Governor, 19 persons have been given appointment on compassionate grounds. Other remaining cases as indicated above are pending consideration for want of suitable vacancies.

श्रीमती मालती शर्मा: मान्यवर, माननीय मंत्री जी के उत्तर में यह कहा गया है कि ग्रुप "सी" या ग्रुप "डी" पद में सीधी भर्ती कोटा की रिक्तियों का अधिकतम 5 परसेंट तक अनुकम्पा नियुक्तियां की जा सकती हैं। इसके साथ ही आपने अपने उत्तर में यह भी कहा है कि डीडीए में काफी संख्या में फालतू कर्मचारी पाए गए हैं। चूंकि ग्रुप "सी" "डी" में सीधी भर्ती कोटा की रिक्तियां उपलब्ध नहीं थीं, योग्य आश्रितों को अनुकम्पा के आधार पर नियुक्ति देने के लिए इन श्रेणियों में पदों के सृजन के लिए सरकार को डीडीए से प्रस्ताव प्राप्त हुआ था और उसे निम्नलिखित कारणों से स्वीकार नहीं किया गया। मान्यवर, मैं यह जानना चाहती हूं कि जब मंत्री जी अपने उत्तर में यह स्वीकार कर रहे हैं कि सरप्लस नियुक्तियां वहां पर कर दी गई है, तो यह नियुक्तियां किस आधार पर की गई हैं? और, इन सरप्लस नियुक्तियों से जो अधिकतम बोझ, आर्थिक बोझ डीडीए के ऊपर पड़ रहा है और इस भार के पड़ने के साथ-साथ जो मृतकों के आश्रित हैं उन लोगों का जिनका अधिकार बनता है, जिनका परिवार का मुखिया चला गया और जिससे उनको बड़े भारी आर्थिक संकट से गुजरना पड़ता है, ऐसे लोगों की नियुक्तियां न करके सरप्लस कर्मचारी वहां आप रखे हुए हैं, तो ऐसे मृतक के आश्रितों को अलायड करना यह कहां तक उचित है और इनके लिए सरकार क्या व्यवस्था कर रही है? इसके साथ ही इन आश्रितों को वहां उनका स्थान देने के लिए इन सरप्लस व्यक्तियों के बारे में सरकार क्या व्यवस्था करने जा रही है?

मान्यवर, मैं माननीय मंत्री जी से यह जानना चाहूंगी कि इनको 10 परसेंट या 5 परसेंट का कोटा तय न करके सीधे-सीधे जब किसी कर्मचारी की मृत्यु होती है तो उसकी पत्नी या उसके बच्चे को उसका स्थान दिया जाए, भले ही किसी उच्च अधिकारी के साथ ऐसी दुर्घटना होती है तो उसकी पत्नी या उसके बच्चे को उसी योग्यता के आधार पर वहां पर उनको एडजस्ट किया जा सके ताकि उस परिवार को आर्थिक संकट से बचाया जा सके, क्या कोई इस प्रकार की योजना आप बना रहे हैं? और जो आश्रित, बच्चे अभी भी इन नियुक्तियों के लिऐ बचे हुए हैं, जैसा आपने अपने उत्तर में बताया कि ग्रुप "सी" में 14 और ग्रुप "डी" में 143 हैं, तो इनको तुरन्त एडजस्ट करने के लिए क्या कोई योजना मंत्री जी बना रहे हैं?

SHRI RAM JETHMALANI: Mr. Chairman, Sir, it is a tragedy of all Governments which is summarised as Parkinson's law and operation. it is unfortunate we started receiving reports, right from 1984, that there is excess of staff in the DDA, apart from the other great virtues of the DDA which have been widely advertised, and Sir, ultimately, a policy was made that we

shall not make any further appointments, and that is the least we could do because it was a lesser evil than retrenchment of people actually in office, and, therefore, Sir, from 1996, 1997, 1998 onwards, no compassionate appointments were at all made because the policy of the need of retrenchment can't coexist with the compassionate policy of making appointments as soon as a vacancy arises in certain cases. But, in spite of that, the Lt. Governor, sometime in January, 1998, said that at least 5 per cent of the vacancies created by retirement of employees must be filled on compassionate grounds. Sir, we have, here, another paradox, the paradox which is created by the Constitution and by the Supreme Court's interpretation of the Constitution. The Supreme Court says that appointments can only be made on merit; you can't have appointments on any ground other than competition and competitive merits. But the Supreme Court did, in some passage in the Judgment, leave a slight loophole, which we have taken advantage of, and by that we are permitting 5 per cent of the appointments being made on compassionate grounds. It is impossible to fill up, on compassionate grounds, the long list of people we have waiting for relief, it can't be done. It will be unconstitutional. Therefore, I can't give an assurance to the hon. Member that we will absorb all these persons who are waiting, it is unfortunate that they are waiting, but that is a general problem of poverty which will be resolved by other methods, but not by this method.

श्रीमती मालती शर्मा: मान्यवर, मैं मंत्री महोदय से यह जानना चाहती हूं, वैसे माननीय मंत्री जी ने यहां सब कानून आदि का बताया, लेकिन इन परिवारों को जो आर्थिक संकट से गुजरना पड़ रहा है या जिनको गुजरना पड़ता है, उनके लिए सरकार क्या कोई व्यवस्था करेगी? भले ही जब इनकी बारी आए तब आप इनको लें, लेकिन उनकी पेंशन है या उनके आश्रितों को और किसी प्रकार से कोई आर्थिक सहायता पहुंचना है, उसके लिए सरकार कोई योजना बनाएगी? फिर मैं यह कहना चाहूंगी कि यह जो कोटा ऐसे आश्रितों के लिए बंधा हुआ है, इस कोटे को समाप्त करके सरकार सीधे सीधे मृतक के परिवार से आश्रितों में एक सदस्य को तुरन्त एडजस्ट करने के लिए क्या कोई प्रोवीजन इसमें करेगी?

SHRI RAM JETHMALANI: Mr. Chairman, Sir, I have fully shared the concern of the hon. Member. Sir, I hope I am not leaking out a Cabinet secret, but, just to put her at ease, I wish to mention to the hon. House that, in September, 1998, I personally went into this problem.

I wrote a long letter to the hon. Minister for Personnel. This is the Ministry which has to sanction this, otherwise I am totally bound hand and foot. I requested at the end of a very well-reasoned letter that he must allow me, at least to fill up the current applications which are lying with me, so that I can at one go appoint them on compassionate grounds, and to allow me to increase this quota of appointments on compassionate grounds from five per cent to ten per cent. But I request that the Ministry has turned down my request by a statement of grounds, which do not appeal to me personally. I am struggling to create a further opportunity, a further relief in this sphere, but at the moment the hon. Member will forgive me; I am absolutely helpless. I am doing my best.

SHRI PRANAB MUKHERJEE: While replying to the first supplementary, the hon. Minister referred to the point that certain constitutional predicaments stand in the way of filling up the vacancies which the Government intends to fill in, or, intends to fill on compassionate grounds. At the same time, he has suggested that they have decided to have five per cent quota. He even went to the extent of disclosing the correspondence between him and the Minister for Personnel, that he wants to enhance it further from five per cent to ten per cent.

I think I have understood him correctly.

SHRI RAM JEDTHMALANI: Yes.

SHRI PRANAB MUKHERJEE: My limited question to you is this. I would like to know, if there is a constitutional bar, then how you can have five per cent or ten per cent quota. If there is a constitutional bar, then how can you circumvent it? You said that you had been using the loopholes. My most respectful submission to him would be that instead of trying to find out some loophole, if the Government considers that it should have the right of appointmetns on compassionate grounds, in spite of the predicaments created by the ruling of the Supreme Court, then why the Government does not take it up and make a clear amendment. He is a distinguished lawyer and he can look into that aspect. (*interruptions*). Let me complete. So, this is one aspect.

This second aspect is this. He has also referred about putting a ban in order to reduce the strength. Naturally, as Finance Minister I also used to put a ban, but there also the Government can take a decision, and it is an decision, to keep the operational posts outside the ban. If the Government thinks it absolutely necessary to provide some support to the employees, then why cannot appointments under the category of compassionate grounds be made?

SHRI RAM JETHMALANI: Sir, the distinguished Member is almost right in everything that he said. But I have to give only one answer. He is right if Shylock's argument in Merchant of Venice was right. But if Portia was right, then I am right. (*interruptions*).

SHRI PRANAB MUKHERJEE: Let us say, both of us are right.

SHRI RAM JETHMALANI: Strictly speaking, even five per cent is not consistent with the constitutional provision of absolute equality of people. But as I said, I have been trying like Portia to find a loophole in Shylock's argument. I have found a loophole. The Supreme Court has said that compassion is not totally out of place, but it can have a very, very limited application. Therefore, my effort is to increase this quota from five per cent to ten per cent. But now it is for the House to decide whether Shylock or Portia will prevail.

SHRI R. MARGABANDU: Hitherto, the State Governments and the Central Government have followed the rule of appointing the eligible candidates of the bereaved employees. They have been applying for it, and they have been appointed. I would like to know whether the Government will take into consideration giving appointments to all persons on humanitarian ground, that is, on compassionate ground. The hon. Minister said that there is a loophole, so even if there is any restriction, then the loophole can be made use of for appointing as many persons as possible on compassionate grounds. Will the Government do it?

SHRI RAM JETHMALANI: Sir, the Government will, probably one day, have to go to the Supreme Court and tell them to accept Portia's argument in greater generosity. We are doing our best. My friend can be sure about it.

SHRI JANARDHANA POOJARY: Sir, so many representations have been made not only to the representatives of the people but also to the Government. There are so many such cases in the country. So many youngsters were killed in accidents leaving young wives and small children. In those cases also nothing has been done. The law is for the people. All laws are made for the people. He was good enough to say that he had all the concern and he was going to share it. Now he has got the authority to do it. If there is any hindrance, why cannot he bring a note before the Cabinet saying that an amendment is required? He need not go to the Supreme Court. Mr. Jethmalani, you can go to your Cabinet and your Cabinet will support you and we all will support you. Your argument is that we have to reduce the number of employees and we have to cut short the expenditure. Is it our case that we are waiting for the death of our own employees who are

serving the nation? Are we doing that? Are we not expected to fill those vacancies which arose due to the death of those persons while discharging their duties? Doesn't the country have any concern for them? The entire House and all the parties will support you. You go before the Cabinet, bring an amendment and even the Supreme Court has to agree to that.

SHRI RAM JETHMALANI: Sir, I do not think I an seriously persuade my Cabinet to violate the Constitution knowingly and intentionally. That is not possible. I do not propose to do it. However great the respect I have for my friend, I have greater respect for Dr. Ambedkar's Constitution. Dr. Ambedkar's Constitution says that you must have the rule of equality. The Supreme Court has further emphasised that mere compassion is not enough. The Government or the appointing authority is bound to carefully investigate into the means of that particular family. Only when it is found to be a case of absolute indigence, that there is no other source of livelihood possible, then alone can a compassionate appointment be made. Even when we got that ruling, even when the Lt. Governor modified the existing practice, the whole of the year, 1998, was wasted. Well, I call it "wasted", but it was actually spent in investigating into the financial means of every particular family. It was only when we found that the Supreme Court judgement was satisfied, nineteen appointments were made. I regret that this number is awfully small. It should have been a larger number. But, Sir, the speed will now pick up and, maybe, within the limitations that I have, I will be able to make many more appointments. But be sure, I will think seriously of finding some way of persuading the Supreme Court to relax the principles.

Functioning of Science Advisory Committee

*262. SHRI LAKKHIRAM AGARWAL: Will the Minister of STEEL AND MINES be pleased to state:

(a) the present Constitution and functioning of the Science Advisory Committee of his Ministry and its deliberations during the last two years;

(b) the specific recommendations made by the Committee, particularly relating to the propagation and development of technology, research & development in the iron and steel industry and other aspects during each of the last two years and the steps taken by the Government; and

(c) the current status of Research & Development in the Indian Steel sector and separately in the public sector steel plants in terms of facilities, expenditure and move to reduce costing etc.?

THE MINISTER OF STEEL AND MINES (SHRI NAVEEN PATNAIK): (a) to (c) A statement is laid on the Table of the House.

(a) The Science Advisory Committee attached to Ministry of Steel and Mines, Department of Steel has not met during 1997 and 1998. It has been wound up on 14.10.98.

Cabinet approval has been obtained on 19.7.1997 to spend upto Rs. 150 crore anually from interest proceeds of Steel Development Fund (SDF) for Research & Development in Iron and Steel Sector. In place of Science Advisory Committee, an empowered Committee has been constituted on 24.2.1998. The present Constitution and terms of reference of the Empowered Committee are as follows:

1. Secretary to the Government of India, Ministry of Steel and Mines, Department of Steel. — Chairman
2. Secretary to the Government of India, Ministry of Science and — Member